

economy of time and effort for itself, for counsel, and for litigants’’. Benge v. Eli Lilly & Co., 553 F. Supp. 2d 1049, 1050 (N.D. Ind. 2008) (quoting Landis v. N. Am. Co., 299 U.S. 248, 254 (1936)). Although “[t]he decision to grant a stay is committed to a court’s discretion . . . that discretion must be exercised consistently with the principles of fairness and judicial economy’’. Walker v. Monsanto Co. Pension Plan, 472 F. Supp. 2d 1053, 1054 (S.D. Ill. 2006) (citations omitted); see also Hess v. Gray, 85 F.R.D. 15, 27 (D.C. Ill. 1979) (“[A] trial court may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, pending resolution of independent proceedings which bear upon the case.” (internal quotation marks omitted)).

A stay may be granted if “the interests of justice require it, [if] adjudication of the claim would be a waste of judicial effort and [if] the plaintiff will not be substantially harmed by the delay’’. Hess, 85 F.R.D. at 27. A stay of proceedings in this action pending the Court’s determination on NCR’s Motion to Transfer will promote judicial economy, conserve judicial resources and prevent the parties from incurring unnecessary litigation costs. It would be inefficient for the parties to expend time and resources moving forward with the case in the Eastern District of Wisconsin if the case is subsequently transferred to the Western District of Michigan. By contrast, a temporary stay of proceedings will facilitate the uniform resolution of pretrial issues and promote efficiency.

Moreover, a stay will not prejudice any of the parties. This litigation is in its earliest stage: neither Defendant has responded to the Complaint, and no discovery has been sought or provided by any party. No substantive motions have been served or filed except this motion and the contemporaneously filed Motion to Transfer. A stay of proceedings pending the resolution of the discrete issues presented by NCR’s Motion to Transfer will not cause unnecessary delay.

WHEREFORE, NCR respectfully requests that this Court enter an Order staying proceedings pending a determination on NCR's pending Motion to Transfer, or granting such other relief as may be just and proper.

Dated: January 18, 2011

Respectfully submitted,

CRAVATH, SWAINE & MOORE LLP,

by

/s/ Evan R. Chesler

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**Application for admission in the Eastern
District of Wisconsin pending*

CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2011, I electronically filed Defendant NCR Corporation's Civil L. R. 7(h) Expedited Non-Dispositive Motion to Stay Proceedings using the ECF system, which will send notification of such filing by operations of the Court's electronic systems. Parties may access this filing via the Court's electronic system.

/s/ Evan R. Chesler

Evan R. Chesler